

SEP 10 2004

MARTIN & FERRARO, LLP
1557 Lake O'Pines Street, NE
Hartville, Ohio 44632

Telephone
(330) 877-0700

Facsimile
(330) 877-2030

FACSIMILE TRANSMITTAL

TO:

Name: Mail Stop AMENDMENT
(Group Art Unit 3732)

Firm: U.S. Patent & Trademark Office

Fax No.: 703-872-9306

Subject: U.S. Patent Application No. 09/497,590
Gary Karlin Michelson, M.D.
Filed: June 6, 2000

APPARATUS INCLUDING A GUARD MEMBER
HAVING A PASSAGE WITH A NON-
CIRCULAR CROSS SECTION FOR
PROVIDING PROTECTED ACCESS TO THE
SPINE (as amended)

Attorney Docket No. 101.0044-03000

Customer No. 22882

Confirmation No.: 7688

FROM:

Name: Thomas H. Martin, Esq.

Phone No.: 330-877-2277

No. of Pages (including this): 17

Date: September 10, 2004

Confirmation Copy to Follow: NO

Message:**CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8**

I hereby certify that the attached Transmittal Form (in duplicate; \$126.00 additional claims fee to be charged to Deposit Account No. 50-1066), Amendment, and Request for Interference Under 37 C.F.R. § 1.604 are being facsimile transmitted to the U.S. Patent and Trademark Office on September 10, 2004.


Sandra L. Blackmon

If there is a problem with this transmission please call Sandy Blackmon at 330-877-1202 or the sender at the number above.

The information contained in this facsimile message is privileged and confidential information intended only for the use of the addressee listed above. If you are not the intended recipient or the employee or agent responsible to deliver this message to the intended recipient, please do not use this transmission in any way, but contact the sender by telephone.

FORM PTO-1083

Attorney Docket No.: 101.0044-03000
Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Gary Karlin Michelson, M.D.

Serial No: 09/497,590

Filed: June 6, 2000

For: APPARATUS INCLUDING A GUARD
MEMBER HAVING A PASSAGE WITH A
NON-CIRCULAR CROSS SECTION FOR
PROVIDING PROTECTED ACCESS TO THE
SPINE (as amended)

Confirmation No.: 7688

Art Unit: 3732

Examiner: (Unassigned)

**RECEIVED
CENTRAL FAX CENTER**

SEP 10 2004

Mail Stop AMENDMENT

Commissioner for Patents

P.O. Box 1450

Alexandria, Virginia 22313-1450

Dear Sir:

Transmitted herewith is an Amendment in the above-identified application.

- ☐ No additional fee is required.
- ☐ Applicant hereby requests a ***-month extension of time to respond to the above office action.
- ☒ A Request for Interference Under 37 C.F.R. § 1.604 is enclosed.

The fee has been calculated as shown below:

	(Col. 1) CLAIMS REMAINING AFTER AMENDMENT		(Col. 2) HIGHEST NUMBER PREVIOUSLY PAID FOR	(Col. 3) PRESENT EXTRA	LG/SM \$ ENTITY FEE	ADD'L FEE DUE
TOTAL CLAIMS FEE	85	-	78	**	7	LG=\$18 SM=\$9 \$18 \$ 126.00
INDEPENDENT CLAIMS FEE	3	-	3	***	0	LG=\$86 SM=\$43 \$86 \$ 0
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIMS					LARGE ENTITY FEE = \$280 SMALL ENTITY FEE = \$140	\$ 0
TOTAL						\$ 126.00

* If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.

** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, write "20" in this space.

*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, write "3" in this space. The "Highest Number Previously Paid For" (Total or Independent) is the highest number found from the equivalent box on Col. 1 of a prior amendment or the number of claims originally filed.

- ☒ A fee in the amount of \$126.00 to cover the additional claims is to be charged to Deposit Account No. 50-1066.
- ☐ A check in the amount of \$_____ to cover the ***-month extension of time fee is enclosed.
- ☒ The Commissioner is hereby authorized to charge any deficiencies of fees associated with this communication or credit any overpayment to Deposit Account No. 50-1066. A copy of this sheet is enclosed.
- ☒ Any filing fees under 37 C.F.R. § 1.16 for the presentation of extra claims
- ☒ Any patent application processing fees under 37 C.F.R. § 1.17

Respectfully submitted,
MARTIN & FERRARO, LLP

Date: September 20, 2004

By: Thomas H. Martin
Thomas H. Martin
Registration No. 34,3831557 Lake O'Pines Street, NE
Hartville, Ohio 44632
Telephone: 330-877-0700
Facsimile: 330-877-2030

FORM PTO-1083

Attorney Docket No.: 101.0044-03000
Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Gary Karlin Michelson, M.D.

Serial No: 09/497,590

Filed: June 6, 2000

For: APPARATUS INCLUDING A GUARD
MEMBER HAVING A PASSAGE WITH A
NON-CIRCULAR CROSS SECTION FOR
PROVIDING PROTECTED ACCESS TO THE
SPINE (as amended)

Confirmation No.: 7688

Art Unit: 3732

Examiner: (Unassigned)

Mail Stop AMENDMENT

Commissioner for Patents

P.O. Box 1450

Alexandria, Virginia 22313-1450

Dear Sir:

Transmitted herewith is an Amendment in the above-identified application.

- ☐ No additional fee is required.
- ☐ Applicant hereby requests a ***-month extension of time to respond to the above office action.
- ☒ A Request for Interference Under 37 C.F.R. § 1.604 is enclosed.

The fee has been calculated as shown below:

THIS FEE HAS BEEN CALCULATED AS SHOWN BELOW:								
	(Col. 1) CLAIMS REMAINING AFTER AMENDMENT		(Col. 2) HIGHEST NUMBER PREVIOUSLY PAID FOR		(Col. 3) PRESENT EXTRA'	LG/SM \$ ENTITY FEE		ADD'L FEE DUE
TOTAL CLAIMS FEE	85	-	78	**	7	LG=\$18 SM=\$9	\$18	\$ 128.00
INDEPENDENT CLAIMS FEE	3	*	3	***	0	LG=\$86 SM=\$43	\$86	\$ 0
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIMS						LARGE ENTITY FEE = \$280 SMALL ENTITY FEE = \$140		\$ 0
TOTAL								\$ 128.00

* If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.

** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, write "20" in this space.

*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, write "3" in this space. The "Highest Number Previously Paid For" (Total or Independent) is the highest number found from the equivalent box on Col. 1 of a prior amendment or the number of claims originally filed.

- ☒ A fee in the amount of \$126.00 to cover the additional claims is to be charged to Deposit Account No. 50-1066.
- ☐ A check in the amount of \$___ to cover the ***-month extension of time fee is enclosed.
- ☒ The Commissioner is hereby authorized to charge any deficiencies of fees associated with this communication or credit any overpayment to Deposit Account No. 50-1066. A copy of this sheet is enclosed.
- ☒ Any filing fees under 37 C.F.R. § 1.16 for the presentation of extra claims
- ☒ Any patent application processing fees under 37 C.F.R. § 1.17

Respectfully submitted,
MARTIN & FERRARO, LLP

Date: September 20, 2004

By: Thomas H. Martin
Thomas H. Martin
Registration No. 34,3831557 Lake O'Pines Street, NE
Hartville, Ohio 44632
Telephone: 330-877-0700
Facsimile: 330-877-2030

PATENT

Attorney Docket No. 101.0044-03000

Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
Gary K. Michelson, M.D.)	
Serial No.: 09/497,590)	Confirmation No.: 7688
Filed: June 6, 2000)	
For: APPARATUS INCLUDING A)	
GUARD MEMBER HAVING A)	Group Art Unit: 3732
PASSAGE WITH A NON-)	Examiner: Unassigned
CIRCULAR CROSS SECTION)	
FOR PROVIDING PROTECTED)	
ACCESS TO THE SPINE (as)	
amended))	

Mail Stop AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

AMENDMENT

Prior to the examination of the above-identified application, the following
amendments and remarks are submitted:

Amendments to the Claims are reflected in the listing of claims, which begins on
page 2 of this paper.

Remarks begin on page 11 of this paper.

Amendment 9-10-04